IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NOS.1033 AND 26602 OF 2001.

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WRIT PETITION NO.1033 of 2001

Between:

M/s Vishnu Chits Pvt. Ltd., 3-6-365/312, Liberty Plaza,
Basheerbagh , Hyderabad, rep. by its Managing Director

L. Veeresh S/o. late L. Narayana

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep by its Commissioner,
Tank Bunk, Hyderabad-500 004
2 The Additional Commissioner (Finance) Advertisement Section,

Municipal Corporation of Hyderabad , Tank Bund Hyderabad-04

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly in the nature of Writ of Mandamus, declaring the action of the Respondents authorities in treating the name board/board frames fixed by the petitioner company on the parapet walls of its business place are as covered by Section 420 and 421 of the Hyderabad Municipal Corporation Act, 1955 and consequently demanding the fee for the same vide Proceedings in reference letter No. 549/Advt/MCH/2000 dt. 22/04/2000 and No.192/1/Advt/MHC/99/174 dt. 4/12/1999 issued by the Respondent No.2 is illegal, arbitrary, without jurisdiction and violative of fundamental rights and principles of natural justice guaranteed under Art. 14, 21 and 301 of the Constitution of India.

Counsel for the Petitioner: MR.A.RAMAKRISHNA REDDY

Counsel for the Respondents: MR. G. RAMA RAO (SC MCH)

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WRIT PETITION NO.26602 of 2001

Between:

M/s Dress Land, Rep. by its Proprietor Chimanlal K. Shah
H.No. 1-8-516, Chikkadapally,
Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Rep. by its Commissioner
Tank Bund Road, Hyderabad.
2 The Addl. Commissioner (Finance) Advertisement Section, Municipal

Corporation of Hyderabad, Tank Bund Road, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in treating the name board/board frames fixed by the petitioner on the parapet walls of his business place are as covered by Section 420 and 421 of the HMC Act, and consequently demanding the fee vide proceedings in Rc.No. 2292/Advt./MCH/2001 dated 20-8-2001 issued by the 2nd Respondent is illegal, arbitrary, capricious and violation of principles of natural justice.

Counsel for the Petitioner: MR.P.SRIHARI

Counsel for the Respondents: MR.RAMA RAO GHANTA (SC MCH)

The Court made the following:

COMMON ORDER:

Since the facts involved in both these writ petitions are similar in nature, they are being disposed of together.

Challenging the action of the respondents in treating the name boards/board frames fixed by the petitioners on the parapet walls of their respective business places, as illuminated advertisements and covered under Sections 420 and 421 of the Hyderabad Municipal Corporation Act, 1955 and consequently demanding them to pay the advertisement fee vide proceedings of the 2nd respondent in Rc.No.549/Advt/MCH/2000, dated 22.04.2000 and in Rc.No.2292/Advt./MCH/2001, dated 20.08.2001 respectively, the present writ petitions are filed.

Counter affidavits are filed by the respondent-Municipality denying the allegations of the petitioners and alleging that the petitioners without obtaining any prior permission from the respondent-Municipality under Section 421(1)(a) and (b) of the Hyderabad Municipal Corporation Act, 1955, erected illuminated advertisement boards on the parapet walls of their shops. Therefore, the respondent-Municipality has issued the impugned proceedings demanding the petitioners to pay the advertisement fee.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondent-Municipality.

Learned counsel for the petitioners mainly contended that the petitioners have erected the name boards/board frames on the parapet walls of their shops in which they were running their business indicating their addresses, therefore, they cannot be treated as illuminated advertisements. They further contend that for erecting such boards there is no need to take or obtain any permission from the respondent-Municipality under Section 421 (1) (a) and (b) of the Hyderabad Municipal Corporation Act, 1955, therefore, the action of the respondent-Municipality in directing the petitioners to pay the advertisement fee is illegal and arbitrary.

On the other hand, learned Standing Counsel for the respondent-Municipality submits that when the petitioners without taking any prior permission from the respondent-Municipality under Section 421(1)(a) and (b) of the Hyderabad Municipal Corporation Act, 1955, erected illuminated advertisement boards on the parapet walls of their shops, the respondent-Municipality has issued the impugned proceedings demanding them to pay the advertisement fee. However, he further submits that in similar matters a Division Bench of this Court directed the respondent-Municipality to issue notices to the concerned shop owners and after affording an opportunity of being heard to them, shall take appropriate action in the matter, and requested to dispose of the present writ petitions following the said principle treating the impugned proceedings as show cause notices.

A perusal of the impugned proceedings would disclose that the same came to be issued to the petitioners demanding them to pay the advertisement fee when they, without obtaining any prior permission from the respondent-Municipality under Section 421(1)(a) and (b) of the Hyderabad Municipal Corporation Act, 1955, erected illuminated advertisement boards on the parapet walls of their shops. Hence, while accepting the request of the learned Standing Counsel for the respondent-Municipality and treating the impugned proceedings issued by the respondent-Municipality to the petitioners as show cause notices, I deem it appropriate to dispose of the writ petitions with the following directions.

The petitioners are directed to submit their explanations to the impugned notices issued by the respondent-Municipality within a period of 15 days from the date of receipt of a copy of this order and on receipt of the explanations from the petitioners the respondent-Municipality is at liberty to take appropriate action in the matter in accordance with law as expeditiously as possible. Till such time status quo

obtaining as on today shall be maintained.

With the above directions, the writ petitions are disposed of. No costs.

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N.V. RAMANA, J.

Date: 24.06.2005

Nsr/Ksr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bunk, Hyderabad-500 004
2 The Additional Commissioner (Finance) Advertisement Section,

Municipal Corporation of Hyderabad , Tank Bund Hyderabad-04

3 2 CD copies

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